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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,491	08/20/2003	Douglas J. Hidding	BMO-129	7409

7590

06/30/2005

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

Office Action Summary	Application No. 10/644,491	Applicant(s) HIDDING, DOUGLAS J.	
	Examiner Robin A. Hylton	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 8-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-28-03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 8-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 13, 2005.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the valved cap of figures 14-16 as described in the specification. These drawing figures are not of record. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the label associated with the cap must be shown or the feature(s) canceled from the claim 17. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference signs mentioned in the description:

50,52,54,56a,56b,56c,57,58,59,60,62,66, and 68 (all the reference characters associated with figures 14-16). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the

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applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 15 is objected to because of the following informalities: punctuation is missing in line two after "sleeve" and "comprising". Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no disclosure for a closed cap having a label substantially covering exterior portions of the cap in addition to the shrink sleeve as set forth in claim 17.

7. Claim 4 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "said bumper roll" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

There is no disclosure for a closed cap having a label substantially covering exterior portions of the cap in addition to the shrink sleeve as set forth in claim 17. Does the label cover the sleeve as well as top wall? If so, how does this impact the sleeve engaging formations on the cap?

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1,2,15,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salemi (US 5,524,782) in view of Marino, Jr. (US 5,605,230).

Salemi teaches a container **46** having a transfer ring **52** disposed below at least one cap engaging protrusion **48**, a bottle cap **50** having a circular cover and a depending skirt, and a shrink sleeve **58**. Salemi does not teach the sleeve has printing or coloring thereon.

Marino teaches it is known to provide a container assembly with a shrink sleeve that has printing on the sleeve (col. 1, lines 60-61).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of printing on the shrink sleeve of Salemi. Doing so provides additional information to the end user regarding the product contained in the container and/or tamper-evidence.

Regarding the blow-molding limitations of the container neck in claims 2 and 16, these are product-by-process claims and do not structurally limit the claimed invention.

Regarding the HDPE material of the container, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the container of HDPE, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

10. Claims 3-6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1 and 15 above, and further in view of Irish, Jr. (US 3,720,343).

Salemi as modified teaches the claimed closure arrangement except for sleeve engaging formations on the transfer ring of the container neck.

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Irish teaches it is known to provide a container neck transfer ring with indentations thereon.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of sleeve engaging formations in the form of indentations on the transfer ring of the container neck of Salemi. Doing so allows for better gripping between the container neck and the shrink sleeve as well as for better gripping of the container neck by the user's hand upon removal of the shrink sleeve.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Roof et al. (US 4,919,285).

Salemi as modified teaches the claimed closure arrangement except for the plastic closure having a color other than white.

Roof teaches it is known to mold plastic closure caps of various colors.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of providing color to the closure caps of Salemi. Doing so allows for the creation of various colored caps.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 15 above, and further in view of Crum (US 5,022,526).

To the degree the claim is understood in view of the rejections under 35 USC 112, 1st and 2nd paragraphs above, Salemi teaches the claimed closure arrangement except for a label covering substantially the exterior of the closure.

Crum teaches it is known to provide a label covering substantially the exterior of the cap at the top wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of a label to the closure arrangement of Salemi. Doing so provides instructions for the user regarding the use of the product contents in the container.

13. Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasper et al (US 5,669,427) in view of Irish.

In figure 4 of Hasper, a closure is disclosed as having an overcap **38a** with a closed end and a ring **16**. The disclosure at column 8, lines 9-17 provides a shrink sleeve for the closure, but is silent regarding application of the shrink sleeve to the closure.

Irish teaches it is known to provide a closure disk with a shrink sleeve prior to application of the closure to a container neck.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of applying a closure cap having a closed end and a ring such that the closure cap and shrink sleeve are a single unit prior to application to a bottle container. Doing so allow for a more expedient application of a closure to a filled container.

Regarding the limitations of claim 21, the intended use of the closure does not structurally limit the claimed invention.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

15. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

16. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely

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asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-9306 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____


17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH
June 25, 2005



Robin A. Hylton
Primary Examiner
GAU 3727